

002216928

**HOUSE BILL NO. 1528**

Offered January 28, 2000

*A BILL to amend and reenact § 2.1-1.5, as it is in effect and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Title 23 a chapter numbered 4.4:4, consisting of sections numbered 23-38.53:12 through 23-38.53:19, and by adding in Chapter 3 of Title 58.1 an article numbered 20.2 consisting of sections numbered 58.1-514, 58.1-515 and 58.1-516, relating to the creation of the Advantage Virginia Incentive Program.*

Patrons—Scott, Albo, Almand, Brink, Darner, Hull, McClure, Plum, Rust, Van Landingham, Van Yahres and Watts; Senators: Barry, Byrne, Howell, Puller, Schrock, Ticer and Whipple

Consent to introduce

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.1-1.5, as it is in effect and as it may become effective, of the Code of Virginia is amended and reenacted, and the Code of Virginia is amended by adding in Title 23 a chapter numbered 4.4:4, consisting of sections numbered 23-38.53:12 through 23-38.53:19, and by adding in Chapter 3 of Title 58.1 an article numbered 20.2 consisting of sections numbered 58.1-514, 58.1-515 and 58.1-516, as follows:**

§ 2.1-1.5. (For effective date - See note) Entities not subject to standard nomenclature. The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

**Authorities**

Assistive Technology Loan Fund Authority.  
 Medical College of Virginia Hospitals Authority.  
 Richmond Eye and Ear Hospital Authority.  
 Small Business Financing Authority.  
 Virginia Agriculture Development Authority.  
 Virginia College Building Authority.  
 Virginia Economic Development Partnership.  
 Virginia Housing Development Authority.  
 Virginia Information Providers Network Authority.  
 Virginia Innovative Technology Authority.  
 Virginia Port Authority.  
 Virginia Public Building Authority.  
 Virginia Public School Authority.  
 Virginia Resources Authority.

**Boards**

Board of Commissioners, Virginia Agriculture Development Authority.  
 Board of Commissioners, Virginia Port Authority.  
 Board of Directors, Assistive Technology Loan Fund Authority.  
 Board of Directors, Medical College of Virginia Hospitals Authority.  
 Board of Directors, Richmond Eye and Ear Hospital Authority.  
 Board of Directors, Small Business Financing Authority.  
 Board of Directors, Virginia Economic Development Partnership.  
 Board of Directors, Virginia Innovative Technology Authority.  
 Board of Directors, Virginia Resources Authority.  
 Board of Regents, Gunston Hall Plantation.  
 Board of Regents, James Monroe Memorial Law Office and Library.  
 Board of Trustees, Advantage Virginia Incentive Program Foundation.  
 Board of Trustees, Family and Children's Trust Fund.  
 Board of Trustees, Frontier Culture Museum of Virginia.  
 Board of Trustees, Jamestown-Yorktown Foundation.  
 Board of Trustees, Miller School of Albemarle.  
 Board of Trustees, Rural Virginia Development Foundation.  
 Board of Trustees, The Science Museum of Virginia.  
 Board of Trustees, Virginia Museum of Fine Arts.

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60 Board of Trustees, Virginia Museum of Natural History.  
61 Board of Trustees, Virginia Outdoor Foundation.  
62 Board of Visitors, Christopher Newport University.  
63 Board of Visitors, George Mason University.  
64 Board of Visitors, Gunston Hall Plantation.  
65 Board of Visitors, James Madison University.  
66 Board of Visitors, Longwood College.  
67 Board of Visitors, Mary Washington College.  
68 Board of Visitors, Norfolk State University.  
69 Board of Visitors, Old Dominion University.  
70 Board of Visitors, Radford University.  
71 Board of Visitors, The College of William and Mary in Virginia.  
72 Board of Visitors to Mount Vernon.  
73 Board of Visitors, University of Virginia.  
74 Board of Visitors, Virginia Commonwealth University.  
75 Board of Visitors, Virginia Military Institute.  
76 Board of Visitors, Virginia Polytechnic Institute and State University.  
77 Board of Visitors, Virginia State University.  
78 Commonwealth Health Research Board.  
79 Governing Board, Virginia College Building Authority.  
80 Governing Board, Virginia Public School Authority.  
81 Library Board, The Library of Virginia.  
82 Motor Vehicle Dealer Board.  
83 State Board for Community Colleges, Virginia Community College System.  
84 Virginia-Israel Advisory Board.  
85 (Effective until July 1, 2002) Wireless E-911 Service Board.  
86 Commissions  
87 Advisory Commission on the Virginia Schools for the Deaf and the Blind.  
88 Alexandria Historical Restoration and Preservation Commission.  
89 Charitable Gaming Commission.  
90 Chesapeake Bay Bridge and Tunnel Commission.  
91 Hampton Roads Sanitation District Commission.  
92 Tobacco Indemnification and Community Revitalization Commission.  
93 Districts  
94 Chesapeake Bay Bridge and Tunnel District.  
95 Hampton Roads Sanitation District.  
96 Educational Institutions  
97 Christopher Newport University.  
98 Frontier Culture Museum of Virginia.  
99 George Mason University.  
100 James Madison University.  
101 Jamestown-Yorktown Foundation.  
102 Longwood College.  
103 Mary Washington College.  
104 Miller School of Albemarle.  
105 Norfolk State University.  
106 Old Dominion University.  
107 Radford University.  
108 The College of William and Mary in Virginia.  
109 The Library of Virginia.  
110 The Science Museum of Virginia.  
111 University of Virginia.  
112 Virginia Commonwealth University.  
113 Virginia Community College System.  
114 Virginia Military Institute.  
115 Virginia Museum of Fine Arts.  
116 Virginia Polytechnic Institute and State University.  
117 Virginia State University.  
118 Foundations  
119 *Advantage Virginia Incentive Program Foundation.*  
120 Chippokes Plantation Farm Foundation.  
121 Rural Virginia Development Foundation.

- 122 Virginia Arts Foundation.
- 123 Virginia Land Conservation Foundation.
- 124 Virginia Historic Preservation Foundation.
- 125 Virginia Outdoor Foundation.
- 126 Virginia Tobacco Settlement Foundation.
- 127 Museum
- 128 Virginia Museum of Natural History.
- 129 Partnership
- 130 A. L. Philpott Manufacturing Extension Partnership.
- 131 Plantation
- 132 Gunston Hall Plantation.
- 133 § 2.1-1.5. (Delayed effective date) Entities not subject to standard nomenclature.
- 134 The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics
- 135 or the enabling legislation of the entities:
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- 152 Board of Commissioners, Virginia Agriculture Development Authority.
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- 158 Board of Directors, Virginia Economic Development Partnership.
- 159 Board of Directors, Virginia Innovative Technology Authority.
- 160 Board of Directors, Virginia Resources Authority.
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- 164 Board of Trustees, Family and Children's Trust Fund.
- 165 Board of Trustees, Frontier Culture Museum of Virginia.
- 166 Board of Trustees, Jamestown-Yorktown Foundation.
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- 168 Board of Trustees, Rural Virginia Development Foundation.
- 169 Board of Trustees, The Science Museum of Virginia.
- 170 Board of Trustees, Virginia Museum of Fine Arts.
- 171 Board of Trustees, Virginia Museum of Natural History.
- 172 Board of Trustees, Virginia Outdoor Foundation.
- 173 Board of Visitors, Christopher Newport University.
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- 175 Board of Visitors, George Mason University.
- 176 Board of Visitors, Gunston Hall Plantation.
- 177 Board of Visitors, James Madison University.
- 178 Board of Visitors, Longwood College.
- 179 Board of Visitors, Mary Washington College.
- 180 Board of Visitors to Mount Vernon.
- 181 Board of Visitors, Norfolk State University.
- 182 Board of Visitors, Old Dominion University.

183 Board of Visitors, Radford University.  
184 Board of Visitors, University of Virginia.  
185 Board of Visitors, Virginia Commonwealth University.  
186 Board of Visitors, Virginia Military Institute.  
187 Board of Visitors, Virginia Polytechnic Institute and State University.  
188 Board of Visitors, Virginia State University.  
189 Commonwealth Health Research Board.  
190 Governing Board, Virginia College Building Authority.  
191 Governing Board, Virginia Public School Authority.  
192 Library Board, The Library of Virginia.  
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229 *Advantage Virginia Incentive Program Foundation.*  
230 Chippokes Plantation Farm Foundation.  
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233 Virginia Conservation and Recreation Foundation.  
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235 Museum  
236 Virginia Museum of Natural History.  
237 Partnership  
238 A. L. Philpott Manufacturing Extension Partnership.  
239 Plantation  
240 Gunston Hall Plantation.

241 *CHAPTER 4.4:4.*

242 *ADVANTAGE VIRGINIA INCENTIVE PROGRAM.*

243 *§ 23-38.53:12. Definitions.*

244 *As used in this chapter:*

"Council" shall mean the Virginia Workforce Council, created in § 9-329.1.

"Degree" shall have the same meaning as defined in § 23-265.

"Degree-granting institution" shall mean an institution authorized to confer degrees pursuant to Chapter 21 (§ 23-265 et seq.) of this title and regulations promulgated under the authority of that chapter.

"Degree program" shall have the same meaning as defined in § 23-265.

"Eligible degree programs" shall mean degree programs that the Council shall designate as eligible for the Advantage Virginia Incentive Program pursuant to § 23-38.53:16.

"Eligible institutions" shall mean two- or four-year Virginia (i) public institutions of higher education and (ii) private, nonprofit and for-profit, nonsectarian, degree-granting institutions of higher education that are institutionally accredited by an accrediting commission recognized by the United States Department of Education, and whose primary purpose is to provide collegiate, graduate, technical or professional education and not to provide religious training or theological education.

"Foundation" shall mean Advantage Virginia Incentive Program Foundation as created by this chapter.

"Fund" shall mean Advantage Virginia Incentive Fund established pursuant to this chapter.

§ 23-38.53:13. Establishment and administration of Advantage Virginia Incentive Program Foundation; appointment, terms, chairman, quorum, etc., of board of trustees.

The Advantage Virginia Incentive Program Foundation ("Foundation") is established for the express purpose of preparing persons, through education, to enter occupational areas where there is high demand for workers in the Commonwealth by carrying out the duties as imposed to the Foundation by this chapter. The Foundation is a body politic and shall be governed and administered by a board of trustees composed of the State Treasurer or his designee and six trustees from the Commonwealth at large, to be appointed by the Governor for four-year terms. Vacancies shall be filled for unexpired terms.

The Governor shall appoint a chairman of the board from among the six trustees-at-large. A majority of the members of the board serving at any one time shall constitute a quorum for the transaction of business.

§ 23-38.53:14. General powers of the Foundation.

The Foundation shall have the following general powers:

1. To have succession until dissolved by the General Assembly, in which event title to the properties of the Foundation, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Foundation, pass to and become vested in the Commonwealth;

2. To accept, acquire, hold, and administer gifts, donations, grants, bequests, and other moneys for the purpose for which the Foundation is created.

3. To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine; and

4. To perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation.

§ 23-38.53:15. Advantage Virginia Incentive Fund.

A. The Foundation shall establish, administer, manage, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Advantage Virginia Incentive Fund ("Fund"). The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly and (ii) gifts, donations, grants, bequests, and other moneys as may be received on its behalf. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of a fiscal year shall remain in the Fund, and shall not revert to the general fund.

B. Pursuant to the provisions of this chapter, moneys in the Fund may be paid to any eligible institution on behalf of students who have been awarded Advantage Virginia Incentive Program scholarships and who are or will be attending such schools or institutions.

§ 23-38.53:16. Advantage Virginia Incentive Program created; purpose.

A. There is hereby created the Advantage Virginia Incentive Program (AVIP) to provide scholarships to students attending eligible institutions who become employed in occupational areas where there is high demand for workers in the Commonwealth. Moneys from the Fund may be paid to eligible institutions on behalf of students who have been awarded AVIP scholarships and who are or will be attending such institutions.

B. By September 1 of each year the Council shall designate (i) occupational areas where there is high demand for workers in the Commonwealth; (ii) professions and skill areas directly related to such occupational areas where there is high demand for workers in the Commonwealth; and (iii) eligible degree programs that shall be two-year or four-year degree programs, offered by eligible institutions, and that directly lead to employment in such occupational areas where there is high demand for

workers in the Commonwealth. In making such designations, the Council shall (i) consult with the State Council of Higher Education, the Secretaries of Commerce and Trade, Education, and Technology, and any interested representatives from private sector businesses, labor organizations, trade associations, and individuals, public agencies, or private companies with expertise related to labor markets or geographic and demographic analysis, and (ii) seek to ensure that the diverse needs of the Commonwealth are considered and that such designations reflect Virginia's broad, long-term economic, educational, and public policy interests in both the public and private sectors.

C. Subject to the Administrative Process Act (§ 9-6.14:1 et seq.), the Council shall promulgate regulations and procedures which are necessary, convenient, or desirable in administering AVIP as provided in this chapter.

§ 23-38.53:17. Eligibility for AVIP; criteria for maintaining scholarships.

A. In order to be eligible for AVIP, a student must meet the following requirements:

1. Be domiciled in Virginia as defined by § 23-7.4;

2. Be a graduate of a high school in the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent; and

3. Be enrolled in or accepted for enrollment in any two-year or four-year degree programs designated by the Council as directly leading to employment in occupational areas where there is high demand for workers in the Commonwealth pursuant to § 23-38.53:16.

B. All scholarships shall be awarded for one year, but may be renewed annually if the recipient maintains at least a 2.0 grade point average on a scale of 4.0 or its equivalent and demonstrates continued financial need.

§ 23-38.53:18. Amount of scholarships; contract terms and conditions; repayment of scholarship through employment in an occupational area where there is high demand for workers in the Commonwealth.

A. An eligible student may participate in AVIP for up to ten semesters, or their equivalent, whether or not consecutive, and may be awarded a scholarship of up to \$3,000 per academic year by the Council, not to exceed a maximum of \$12,000, to be used for tuition, books, or fees. No student shall participate in AVIP more than seven years after beginning such participation.

B. Before an AVIP scholarship is awarded, a student shall sign a written contract under the terms of which he agrees to be employed in an occupational area where there is high demand for workers in the Commonwealth, as designated by the Council pursuant to § 23-38.53:16. Such employment shall begin within one calendar year after the student's graduation from an eligible institution and continue thereafter until he has been continuously employed in an occupational area where there is high demand for workers in the Commonwealth for a period of years equal in number to the years that he has been or shall be a beneficiary of an AVIP scholarship. The employment qualifying as repayment of an AVIP scholarship shall be approved by the Council on a yearly basis, with each year of approved employment qualifying the student for repayment of one year's AVIP scholarship.

C. The contract shall provide that if the student fails to comply with the provisions thereof, he shall repay to the Fund all amounts received by him as a beneficiary of an AVIP scholarship with interest, such repayment to be upon such terms and conditions as may be determined by the Council. Such contract shall contain such other provisions as may be necessary, convenient, or desirable in the opinion of the Council to accomplish the purposes of this chapter.

D. As further evidence of the student's promise to make repayment through employment in an occupational area where there is high demand for workers in the Commonwealth, he shall, as to each AVIP scholarship awarded to him and at the time such scholarship is awarded, be required to execute and deliver to the Council a note in a principal sum equal to the amount of such scholarship with interest and penalties, if any, to be determined by the Council. The note shall be accepted by the Council upon the condition that such note, and any other similar notes so given, shall be cancelled by the Council upon the basis of one note for each year in which the student shall be continuously employed in an occupational area where there is high demand for workers in the Commonwealth. No student shall be permitted to plead the statute of limitations or interpose a plea of infancy in the event of an action being brought against him on any such note.

E. As part of its regulations to implement the provisions of this chapter, the Council shall specify repayment procedures in the event a student fails or refuses to maintain eligibility for AVIP during the scholarship year or to fulfill the terms and conditions of his contract with the Council. All money repaid by the student shall be placed in the Fund.

§ 23-38.53:19. Selection of beneficiaries.

A. In selecting beneficiaries of the AVIP scholarship, the Council shall not select more beneficiaries than the moneys available in the Fund to grant scholarships to such beneficiaries.

B. In selecting beneficiaries, priority shall be given to eligible students (i) who are closest to completing their degree programs designated by the Council under § 23-38.53:16 as directly leading to an occupational area where there is high demand for workers in the Commonwealth, (ii) who

demonstrate financial need, and (iii) whose applications were received earliest by the Council.

C. After selecting the beneficiaries, the Council shall inform the Foundation of such beneficiaries, upon which notification the Foundation shall issue scholarship moneys to the beneficiaries or to the institutions in behalf of the beneficiaries as provided in subsection B of § 23-38.53:15.

§ 23-38.53:20. Council not required to enter into contracts.

Nothing in this chapter shall be construed to require the Council to enter into contracts with students who otherwise qualify for AVIP when funds are not available for such purpose or as a promise or guarantee by the Council that a person (i) is or will be admitted to an eligible institution, (ii) is allowed to continue to attend such eligible institution after having been admitted, or (iii) graduated from such institution.

#### Article 20.2.

##### Tax Credits for Advantage Virginia Incentive Fund.

§ 58.1-514. Tax credit for contribution to the Advantage Virginia Incentive Fund.

A. A taxpayer contributing to the Advantage Virginia Incentive Fund, as established pursuant to § 23.38-53:15, shall be allowed a tax credit against taxes imposed pursuant to Article 2 (§ 58.1-320 et seq.), Article 6 (§ 58.1-360 et seq.), Article 9 (§ 58.1-390 et seq.), and Article 10 (§ 58.1-400 et seq.) of Chapter 3 of this title pursuant to this article.

B. The tax credits created by this article shall only be allowed if the total sum certain of the taxpayers' contributions to the Advantage Virginia Incentive Fund, to be determined as of December 31 of each year, is equal to or greater than the amount certain appropriated by the General Assembly for the Advantage Virginia Incentive Fund for that taxable year. If the total sum certain of the taxpayers' contributions are less than the amount certain appropriated by the General Assembly for that year, each contributor shall have the option to have his contribution refunded to him.

§ 58.1-515. Amount of the tax credit.

A. A taxpayer shall be allowed a tax credit in the amount equal to fifty percent of the contributions made to the Advantage Virginia Incentive Fund. The amount of tax credit available to a taxpayer in a taxable year shall not exceed the amount of tax imposed to the taxpayer for that taxable year.

B. The total amount of tax credits allowed under this article for a taxable year shall not exceed two and one-half million dollars. If the credits exceed two and one-half million dollars for a taxable year, they shall be allocated by the Department of Taxation on a pro rata basis. If credits are less than two and one-half million dollars for a taxable year, the unused amount shall be utilized in the succeeding taxable year in addition to the two and one-half million dollars of credit allowed during that year.

§ 58.1-516. Department of Taxation to promulgate regulations.

Subject to the Administrative Process Act (§ 9-6.14:1 et seq.), the Department of Taxation shall promulgate regulations (i) establishing procedures for claiming the tax credit provided by this article and (ii) providing for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits for which requests are made exceeds the available amount of credits in any one taxable year.